



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

August 29, 1996

Mr. Douglas R. Hyde
Assistant City Attorney
City of Dallas
City Hall
Dallas, Texas 75201

OR96-1549

Dear Mr. Hyde:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 31488 and RQ-833.

The City of Dallas (the "city") received a request for information related to a specified police investigation. You contend that the information requested is excepted from required public disclosure pursuant to sections 552.103(a) and 552.108 of the Government Code. You have submitted various documents for our review.

We first address whether you were required to timely request an attorney general decision under section 552.301 of the Government Code to withhold the requested records under section 552.108. You contend that Open Records Decision No. 127 (1976) is a previous decision for purposes of section 552.301(a). Section 552.301(a) requires a governmental body to request an attorney general decision within ten days of receiving a request for records under the Open Records Act, unless there has been a "previous determination about whether the information falls within one of the exceptions." The scope of this portion of section 552.301(a) is narrow. A governmental body need not request another decision from this office if it has previously requested and received a determination from this office about the precise information at issue in the pending request. Generally, however, if the previous decision did not involve the same actual information, this office

does not treat the pending request as governed by the previous decision, because this office must apply the legal standard of a particular exception to the specific information at issue in each case. Open Records Decision No. 435 (1986); *see also Houston Chronicle Publishing Co. v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989). Thus, we conclude that you are required to timely request an attorney general decision under section 552.301 in order to withhold information under section 552.108.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime," and "[a]n internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution." Gov't Code § 552.108; *see Holmes v. Morales*, 39 Tex. Sup. Ct. J. 781, 1996 WL 325601 (June 14, 1996). We note, however, that information normally found on the front page of an offense report is generally considered public.¹ *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). We therefore conclude that, except for front page offense report information, section 552.108 of the Government Code excepts the requested records from required public disclosure. On the other hand, you may choose to release all or part of the information that is not otherwise confidential by law. Govt Code § 552.007. As we resolve this matter under section 552.108, we need not consider your argument that section 552.103 would except the information from disclosure.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Assistant Attorney General
Open Records Division

¹The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

LRD/rho

Ref.: ID# 31488

Enclosures: Submitted documents

cc: Mr. Terry G. Stephens
M&M Security Services, Inc.
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Richardson, Texas 75080
(w/o enclosures)